

Bulletin 97-2

1997 S.C. act number (S.254)(R.260) automobile insurance reform

July 21, 1997

The purpose of this bulletin is to notify insurers of the immediately effective provisions of 1997 S.C. Act Number (S.254)(R.260), which became law on July 3, 1997. That Act reformed the State of South Carolina's automobile insurance delivery and residual market systems. The Act includes provisions which repeal or modify the mandate upon insurers to underwrite; the mandate upon insurers to use legislatively-enacted or administratively-determined class plans, merit rating plans, and territorial plans; the mandate upon motor vehicle owners to carry, in all instances, insurance as proof of financial responsibility; the South Carolina Reinsurance Facility and its annual recoupment charges; and automobile insurance premium rate prior-approval.

Since these delivery and residual market systems have been in place since 1974 and, for the most part, are unique to the State of South Carolina, the effective date of the Act was set legislatively at March 1, 1999, to allow insurers, insurance agents, and State regulators the opportunity to prepare to properly implement all provisions of the Act. However, certain provisions of the Act became law upon July 3, 1997. This bulletin will address four of those immediately-effective provisions. Later bulletins will continue to implement and to interpret if necessary the Act. Those bulletins will be mailed to all insurers licensed to transact property and casualty insurance business within this State and also will be posted upon this Agency's Internet web page at <http://www.state.sc.us/doi>.

A complete copy of the Act can be found upon the State of South Carolina's Legislative Systems Internet web page at <http://www.lpittr.state.sc.us/bills/254.htm>. In addition, an indexed copy of the Act along with a summary can be obtained from this Agency for \$5.00, the cost of copying, handling, and shipping. To receive a copy, please contact Tim Baker, Executive Assistant to the Director for Governmental Affairs, at the State of South Carolina Department of Insurance, 1612 Marion Street, Post Office Box 100105, Columbia, South Carolina 29202-3105; at electronic mail address tbaker@doi.state.sc.us; or at telecopier facsimile transmission number (803) 737-6229.

The Independent Insurance Agents of South Carolina has scheduled four seminars, at which Department of Insurance staff will also instruct, designed to brief its members, any insurer staff, and all interested persons upon the provisions of the Act. Those seminars are set for:

Date	Location	Time
August 14, 1997	Columbia, South Carolina	1:00 p.m. to 4:00 p.m.
August 19, 1997	Greenville, South Carolina	1:00 p.m. to 4:00 p.m.
August 20, 1997	Florence, South Carolina	10:00 a.m. to 1:00 p.m.
August 21, 1997	Charleston, South Carolina	10:00 a.m. to 1:00 p.m.

Details and registration information can be obtained from that trade association by contacting Becky H. McCormack, Education Director, at telephone number (803) 731-9460; at telecopier facsimile transmission number (803) 772-6425; or at 800 Gracern Road, Post Office Box 210008, Columbia, South Carolina 29221.

I. PROOF OF INSURANCE

Section 22 of the Act adds Section 56-10-225 to the Code. That new Code Section requires that, at all times, motor vehicle owners must maintain proof of financial responsibility in their motor vehicles and must display that proof upon the demand of a law enforcement officer. The Act does not prescribe the form or the complete content of the proof; it only requires proof that "the motor vehicle is an insured vehicle." Therefore, the proof should include at least the insurer's name, policy number, policy term, vehicle identification number, insured identification, and coverage information or a statement that coverage meets this State's minimum financial responsibility requirements. Proof of financial responsibility issued under commercial automobile policies, such as garage dealer's policies, which do not insure specific vehicles, need not include vehicle identification. As a result, insurers must make certain that such insureds receive an adequate number of documents to evidence proof. Although timing of enforcement of Section 22 is a law enforcement issue, insurers, *within 90 days*, must notify all insureds of the requirement that proof be maintained and displayed pursuant to the law and must make certain that those insureds have such proof of insurance. If proof of coverage which complies with the requirements of Section 56-10-225 has been given to insureds during the current policy period, then new proof is not required to be issued. However, insurers must notify those insureds within the 90 day limit of the obligation to maintain and display such proof.

II. VOLUNTARY MARKET OUTLETS FOR SOUTH CAROLINA REINSURANCE FACILITY DESIGNATED PRODUCERS

Section 18 of the Act repeals S.C. Code Ann. Section 38-77-590(c)(3) (Supp. 1996). That Section originally prohibited designated agents from having any direct or indirect connection with any automobile insurance voluntary market outlet. Therefore, repeal of that prohibition now provides designated agents with an 18-month opportunity before the implementation date of the repeal of the mandate-to-underwrite to develop agency agreements. During that opportunity period, designated agents may place risks through

their servicing carriers and with their voluntary market outlets. Insurers wishing to pursue such agency agreements may contact the designated agents' trade association, the South Carolina Association of Auto Insurance Agents, Inc., through Lucy M. Peters, Executive Vice President, at 3963 Rivers Avenue, Charleston, South Carolina 29405; at telephone number (803) 554-2865; or at telecopier facsimile transmission number (803) 554-2864.

III. MANDATE-TO-OFFER LOWER THAN MINIMUM LIMITS UNDERINSURED MOTORIST COVERAGE MODIFIED

On *September 3, 1996*, within *Butler v. Unisun Insurance Company*, _____ S.C. _____, 475 S.E. 2d 758 (1996), the State of South Carolina Supreme Court held that S.C. Code Ann. Section 38-77-160 (Supp. 1995) requires that insurers make a meaningful offer to applicants for automobile insurance coverage of underinsured motorist coverage at limits less than the minimum liability limits required by law. Section 3 of the Act amends S.C. Code Ann. Section 38-73-470 (Supp. 1996), effective *July 3, 1997*, in pertinent part; to add: "there is no requirement for an insurer or an agent to offer underinsured motorist coverage at limits less than the statutorily required bodily injury or property damage limits."

IV. ESTABLISHMENT OF A JOINT UNDERWRITING ASSOCIATION AS THE RESIDUAL MARKET MECHANISM FOR AUTOMOBILE INSURANCE — SELECTION OF THE JUA'S ADVISORY BOARD'S NON-TRADE-ASSOCIATION-AFFILIATED INSURER MEMBER

Beginning upon March 1, 1999, insureds who cannot find automobile insurance in the voluntary market may purchase that coverage, at self-sustaining rates, from the Associated Auto Insurers Plan, a newly-established joint underwriting association. Despite that delayed effective date, much must be accomplished quickly before that Plan can issue policies in 1999. For instance, among other requirements, an Advisory Board must be selected and seated, a plan of operation must be developed and implemented, and a Plan administrator and servicing carriers must be selected.

The make-up of the Advisory Board — which must be seated and hold an organizational meeting within 90 days of the Act's July 3, 1997 effective date — is detailed within Section 20, Section 38-91-130(a) of the Act. Five insurer representatives will sit upon the 15 member Advisory Board: one member of the American Insurance Association selected by that Association; one member of the Alliance of American Insurers selected by that Alliance; one member of the National Association of Independent Insurers selected by that Association; one domestic insurer, regardless of trade association affiliation, selected by the Director; and "(o)ne insurer which is not affiliated with the forgoing trade organizations and which is elected by such nonaffiliated insurers voting in person or by proxy."

Attached to this bulletin as Attachment Number One is a list of 129 non-trade-association-affiliated insurers which the Department of Insurance has determined to be eligible to vote for the Advisory Board's non-trade-association-affiliated insurer seat. The

list was compiled by comparing membership listings provided to the Department of Insurance by AIA, AAI, and NAI against this Department's list of all licensed property and casualty insurers which have underwritten any line of automobile insurance within this State within the past two years or which have any line of automobile insurance premium rates and insurance policy forms approved for sale within this State.

In order to meet the time lines mandated by the Act, the following actions must take place by the following dates:

1. All insurers must carefully review the attached list. Non-trade-association-affiliated insurers which are not on the attached list must immediately contact the Director by telecopier facsimile transmission at (803) 737-6229. The voting list will be finalized *at 5:00 p.m., on Friday, August 1, 1997*.
2. An open meeting of non-trade-association-affiliated insurers will be held *at 9:00 a.m., on Friday, August 8, 1997*, at the State of South Carolina Department of Insurance, Room Number 401, 1612 Marion Street, Columbia, South Carolina 29201. This meeting has been scheduled only to allow non-trade-association-affiliated insurers the opportunity and the location to meet to discuss issues relevant to selection of the non-trade-association-affiliated insurer Board member. Attendance is voluntary. Department of Insurance staff will open the meeting and will facilitate — if necessary and if wanted — any discussion. Department of Insurance staff will not, in any manner, participate in the selection process.
3. Votes will be received in person from *3:00 p.m. to 5:00 p.m., on Friday, August 15, 1997*, at the State of South Carolina Department of Insurance, Room Number 401, 1612 Marion Street, Columbia, South Carolina 29201. If in-person voting will be done for another insurer by proxy, then the Proxy attached to this bulletin as Attachment Number Three must be completed, with original signatures, and must be delivered with the vote. Proxy copies transmitted by telecopier facsimile transmission will not be accepted.
4. All votes received by mail must be received by the Director by *5:00 p.m., on Friday, August 15, 1997*. Votes submitted by mail must be submitted to the State of South Carolina Department of Insurance, 1612 Marion Street, Post Office Box 100105, Columbia, South Carolina 29202 upon the Ballot attached to this bulletin as Attachment Number Two. If voting by mail will be done by proxy, then the Proxy attached to this bulletin as Attachment Number Three must be completed, with original signatures, and must be attached to the Ballot. Proxy copies transmitted by telecopier facsimile transmission will not be accepted.

The above time lines are mandatory. They will not be extended. Individual continuances will not be allowed. A bulletin seating the Advisory Board will be issued upon *August 22, 1997*. Any questions concerning the list or the voting process must be directed, in writing, by telecopier facsimile transmission to the Director. Questions asked by insurers, however, will not stay or continue the above time lines. Failure of any insurer to comply

with the time lines will be considered a waiver of that insurer's opportunity to participate in the selection process.

Lee P. Jedziniak
Director of Insurance

ATTACHMENT 1

NON-TRADE-ASSOCIATION-AFFILIATED INSURERS ELIGIBLE TO VOTE FOR THE SOUTH CAROLINA ASSOCIATED AUTO INSURERS PLAN'S ADVISORY BOARD'S NON-TRADE-ASSOCIATION-AFFILIATED INSURER MEMBER

1. Agricultural Insurance Company
2. AIG National Insurance Company, Inc.
3. AIU Insurance Company
4. Alliance Assurance Company of America
5. Alpha Property & Casualty Insurance Company
6. American Alliance Insurance Company
7. American Alternative Insurance Corporation
8. American Economy Insurance Company
9. American Fire and Casualty Company
10. American Hardware Mutual Insurance Company
11. American Healthcare Indemnity Company
12. American Home Assurance Company
13. American International Pacific Insurance Company
14. American International South Insurance Company
15. American Loyalty Insurance Company
16. American National Fire Insurance Company
17. American Reliable Insurance Company
18. American Security Insurance Company
19. American Spirit Insurance Company
20. American States Insurance Company
21. Amica Mutual Insurance Company
22. Atlantic Insurance Company
23. Atlantic Mutual Insurance Company
24. Balboa Insurance Company
25. Benchmark Insurance Company
26. Berkeley Insurance Company of the Carolinas
27. Birmingham Fire Insurance Company of Pennsylvania
28. Canal indemnity Company
29. Canal Insurance Company
30. Capital City Insurance Company, Inc.
31. Catawba Insurance Company
32. Centennial Insurance Company
33. Century-National Insurance Company
34. The Cincinnati Casualty Company
35. The Cincinnati Indemnity Company

36. Cincinnati Insurance Company
37. CNL/Insurance America, Inc.
38. Colonia Insurance Company
39. Commerce and Industry Insurance Company
40. Consolidated American Insurance Company
41. Continental National Indemnity Company
42. Eagle American Insurance Company
43. Fidelity and Casualty Company of New York
44. First Colonial Insurance Company
45. First National Insurance Company of America
46. General Insurance Company of America
47. Generali — U. S. Branch
48. Genesis Insurance Company
49. Granite State Insurance Company
50. Great American Insurance Company
51. Great West Casualty Company
52. Greater New York Mutual Insurance Company
53. Gulf Insurance Company
54. Hanover Insurance Company
55. Highlands Insurance Company
56. Home Insurance Company
57. Illinois National Insurance Company
58. Independent Property & Casualty Insurance Company
59. Insurance Company of the State of Pennsylvania
60. Intercargo Insurance Company
61. International Insurance Company
62. Interstate Indemnity Company
63. Lincoln National Health and Casualty Insurance Company
64. Lyndon Property Insurance Company
65. Manufacturers Alliance Insurance Company
66. Massachusetts Bay Insurance Company
67. Middlesex Insurance Company
68. Millers Mutual Insurance Association
69. Mutual Service Casualty Insurance Company
70. National American Insurance Company
71. National Casualty Company
72. National Continental Insurance Company
73. National Liability and Fire Insurance Company
74. National Union Fire Insurance Company of
Pittsburgh, Pennsylvania
75. Nationwide Mutual Fire Insurance Company
76. Nationwide Mutual Insurance Company
77. Nationwide Property and Casualty Insurance Company
78. New Hampshire Indemnity Company Insurance
79. New Hampshire Insurance Company
80. Nichido Fire and Marine Insurance Company, Ltd., US Branch

81. The Nippon Fire and Marine insurance Company, Ltd.,
US Branch
82. NN Insurance Company
83. Nobel Insurance Company
84. Nonprofits' Insurance Association, An Interinsurance Exchange
85. Nonprofits' Mutual (RRG), Inc.
86. Northbrook Indemnity Company
87. Northbrook National Insurance Company
88. Northbrook Property and Casualty Insurance Company
89. Northwestern National Insurance Company
90. Ohio Casualty Insurance Company
91. Ohio Farmers Insurance Company
92. Ohio Indemnity Company
93. Old Republic Insurance Company
94. Ooida Risk Retention Group, Inc.
95. Penn National Security Insurance Company
96. Pennsylvania Manufacturers Association Insurance Company
97. Pennsylvania Manufacturers Indemnity Company
98. Pennsylvania National Mutual Casualty Insurance Company
99. Philadelphia Indemnity Insurance Company
100. Pinnacle Insurance Company
101. Preferred Mutual Insurance Company
102. Progressive Northern Insurance Company
103. Progressive Speciality Insurance Company
104. Republic Western Insurance Company
105. Safeco Insurance Company of America
106. Scottsdale Indemnity Company
107. The Sea Insurance Company of America
108. Select Insurance Company
109. Sentry Insurance, A Mutual Company
110. South Carolina Insurance Company
111. Southern Fire and Casualty Company
112. Southern Mutual Church Insurance Company
113. Southern Pilot Insurance Company
114. Spartan Property Insurance Company
115. State Farm Mutual Automobile Insurance Company
116. State National Insurance Company, Inc.
117. Sun Insurance Office of America, Inc.
118. T.H.E. Insurance Company
119. TIG Countrywide Insurance Company
120. TIG Insurance Company
121. TIG Premier Insurance Company
122. Triton Insurance Company
123. Underwriters Insurance Company
124. Ulico Casualty Company
125. United Financial Casualty Company

- 126. Voyager Property and Casualty Insurance Company
- 127. Westfield Insurance Company
- 128. Westport Insurance Company
- 129. Windsor Insurance Company

ATTACHMENT 2

SOUTH CAROLINA ASSOCIATED AUTO INSURERS PLAN
ADVISORY BOARD'S NON-TRADE-ASSOCIATION-
AFFILIATED INSURER SELECTION

BALLOT

On behalf of _____[Insurer Name],
as its authorized representative, pursuant to 1997 S.C. Act Number
(S.254)(R.260), Section 20, Section 38-91-130(a) (effective upon July 3,
1997), I hereby cast the following vote or votes for the
non-trade-association-affiliated insurer member to be seated upon the
Advisory Board of the South Carolina Associated Auto Insurers Plan:

Advisory Board Member	Number of Votes
_____	_____
_____	_____

[If more than one vote, on behalf of more than one insurer, is cast upon
this Ballot, then appropriate Proxies, with original signatures, must be
attached for those votes to be valid and counted. Proxy copies
transmitted by telecopier facsimile transmission will not be accepted.]

By my signature upon this Ballot, I warrant that I have the authority
of the above-detailed insurer, or insurers by attached Proxy or Proxies,
to cast the vote, or votes, which I have cast.

By: _____
Signature

Typed or Printed Name

Title and Insurer Name

Business Address

Sworn to before me this ____ day

ATTACHMENT 3

SOUTH CAROLINA ASSOCIATED AUTO INSURERS PLAN ADVISORY BOARD'S NON-TRADE-ASSOCIATION-AFFILIATED INSURER SELECTION

PROXY

_____ [Insurer Name]
does, by this Proxy, constitute and appoint _____
as its substitute and proxy in its name, place, and stead to vote for the
insurer to be seated as the non-trade-association-affiliated insurer
member upon the Advisory Board of the South Carolina Associated
Auto Insurers Plan. *See* 1997 S.C. Act Number (S.254)(R.260), Sec-
tion 20, Section 38-91-130(a) (effective upon July 3, 1997). That vote by
proxy must be made on, or before, 5:00 p.m., Friday, August 8, 1997, by
mail to the State of South Carolina Department of Insurance, Post
Office Box 100105, 1612 Marion Street, Columbia, South Carolina 29202,
or in person at the State of South Carolina Department of Insurance,
1612 Marion Street, Columbia, South Carolina 29201.

This Proxy supersedes, replaces, and revokes any and all proxies
heretofore given to any person or persons for the above purposes. This
Proxy is for a single purpose only and, therefore, is final, binding, and
non-revocable.

This Proxy has been executed upon _____ [date].

By: _____
Signature of Insurer Officer

Typed or Printed Name of Insurer Officer

Type of Insurer Officer

Sworn to before me

